

REMARKS

In the outstanding official action, claims 1-9 were rejected under 35 USC 103(a) as being unpatentable over Yonezawa in view of Lee, for the reasons of record, while claim 10 was rejected under 35 USC 101 as being directed to non-statutory subject matter. In response, claim 10 is herewith cancelled, without prejudice, and independent claims 1 and 6 have been amended in order to more particularly and precisely recite the novel and unobvious features of the invention.

More particularly, it is admitted in the Action that the primary reference does not teach the means for controlling the write head so that at least one data block is written to a second location which is the nearest available location on the track of the current location of the write head in the rotational sense of the record carrier (and the analogous method subject matter in claim 1). However, it was suggested that Lee overcomes this deficiency by teaching a "means for controlling" the write head in such a way that the at least one data block is written to a second location ("SA" in Fig. 2) as disclosed in lines 1-5 of paragraph [0008] wherein the second location is suggested to be the nearest available location on the track of the current location of the write head in the rotational sense of the record carrier.

In response, the cited figure and text of Lee, as well as the remainder of the description of Fig. 2 therein have been examined,

and it is respectfully submitted that Lee does not show or suggest the teaching that the second location must be the nearest available location on the track of the current location of the write head. What Lee discloses, on the contrary, is simply that a portion of the optical disk is allocated as a spare recording area, and that whenever there are defects on the optical disk data that is supposed to be recorded in the defective area will then be recorded in the spare recording area instead [0006], and that when the optical disk drive encounters a defect such that data cannot be recorded to a data block correctly, the optical disk drive "will find a substitute spare block" and write the data that was meant to be in the defective data block into the substitute spare block [0010].

Thus, it is respectfully submitted that while Lee teaches that data intended to be recorded at a first location may instead be recorded to a second location if the first location is defective, Lee does not show or suggest that this second location should be the nearest available location as disclosed and claimed in the instant application, nor does Lee detail the advantage of increasing access performance by reducing rotational delay in writing to the nearest available location.

Thus, it is respectfully submitted that Lee neither recognizes the problem addressed by the instant invention nor provides a solution to this problem as disclosed and claimed in the instant

application. Furthermore, in order to more particularly and precisely recite this difference, the independent claims have been amended to more specifically recite that writing is done to a second location which is the nearest available location to reduce rotational delay in writing the at least one data block.

In view of the foregoing, it is respectfully submitted that independent claims 1 and 6, as herewith amended, and the remaining claims depending therefrom, are clearly patentably distinguishable over the cited and applied references. Accordingly, allowance of the instant application is respectfully submitted to be justified at the present time, and favorable consideration is earnestly solicited.

Respectfully submitted,

By 

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